

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS_____
ANTHONY MENDES
AND DORIS MENDES,

Plaintiffs,

v.

CENDANT MORTGAGE,

Defendant.

Civil Action No. _____

05 CV 11765 DPWRECEIPT # 66498
AMOUNT \$ 250.00
SUMMONS ISSUED NA
LOCAL RULE 4.1 -
WAIVER FORM -
MCF ISSUED -
BY DPTY. CLK. M.P.
DATE 8/26/2005MAGISTRATE JUDGE MBBNOTICE OF REMOVAL

Please take notice that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Cendant Mortgage ("Cendant") hereby removes to this Court the above-captioned action pending in the Superior Court Department of the Trial Court, Bristol County, Massachusetts. In support of removal, Cendant alleges as follows:

1. Plaintiffs, Anthony and Doris Mendes (the "Plaintiffs") instituted this civil action, entitled Anthony Mendes and Doris Mendes v. Cendant Mortgage, Civil Action. No. 05-809-B, pending in the Superior Court Department of the Trial Court, Bristol County, Massachusetts (the "Action") on July 25, 2005. A copy of the Complaint and Civil Action Cover Sheet filed in the Action are annexed hereto as Exhibits A and B, respectively. Plaintiffs assert claims for damages arising from Cendant's alleged breach of contract and unfair and deceptive acts in violation of section 2 of Mass. Gen. Laws Chapter 93A, in failing to finance the purchase of a new home. As stated in the Civil Action Cover Sheet, Plaintiffs assert over \$200,000 in damages as a result of Cendant's alleged misconduct.

2. A copy of the Complaint was received by Cendant on August 1, 2005.

3. This petition is being filed within thirty (30) days of the date on which Cendant received the Complaint. This petition is also being filed within one year of the commencement of the Action and is therefore timely filed under 28 U.S.C. § 1446(b) and Rule 6(a) of the Federal Rules of Civil Procedure.

4. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court by defendant Cendant pursuant to the provisions of 28 U.S.C. § 1441, et seq., because it is a civil action between citizens of different states and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

5. No prior application for the same or similar relief has been made to this or to any other court.

6. Complete diversity of citizenship exists as between the plaintiff and defendant.

7. As set forth in the complaint, Plaintiffs reside at 895 School Street, Mansfield, Massachusetts. *See Exhibit A*, ¶ 1.

8. Defendant Cendant is, and was at the time of the institution of this civil action, a corporation organized and existing under and by virtue of the laws of the State of New Jersey, with its principal place of business located in Mount Laurel, New Jersey. Cendant is not now, and was not at the time of the filing of the Complaint, a citizen or resident of the Commonwealth of Massachusetts.

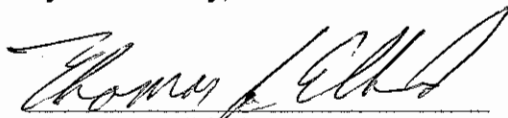
9. The amount in controversy in this action exceeds the sum or value of \$75,000.00, exclusive of interests or costs. As set forth in the Civil Action Cover Sheet, Plaintiffs seek damages over \$200,000. *See Exhibit B*.

10. Plaintiff's claims will undoubtedly exceed \$75,000.00. Accordingly, the jurisdictional amount required by 28 U.S.C. § 1332 is satisfied.

WHEREFORE, defendant Cendant Mortgage respectfully requests that the above-captioned action be removed from the Superior Court Department of the Trial Court, Bristol County, Massachusetts, to this Court.

Respectfully submitted,

CENDANT MORTGAGE,
By Its Attorney,

A handwritten signature in black ink, appearing to read "Thomas I. Elkind", is written over a horizontal line.

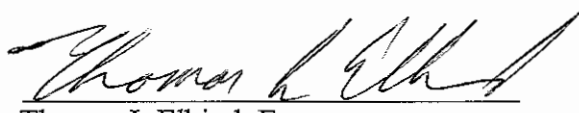
Thomas I. Elkind, BBO #153080
Andrew K. Goldstein, BBO #552239
Foley & Lardner LLP
111 Huntington Avenue
Boston, Massachusetts 02199
(617) 342-4000

Dated: August 26, 2005

CERTIFICATE OF SERVICE

I, Thomas I. Elkind, hereby certify that on this 26th day of August, 2005, I caused the foregoing Defendant's Notice of Removal to be served by first class mail, postage paid, upon the plaintiff's attorney:

Christopher J. Trombetta
Law Office of Christopher J. Trombetta
310 North Main Street
Mansfield, MA 02048


Thomas I. Elkind, Esq.

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

SUPERIOR COURT

ANTHONY MENDES
AND DORIS MENDES,

Plaintiffs,

v.

CENDANT MORTGAGE,

Defendant.

*
*
*
*
*
*
*
*
*
*
*

Civil Action No.:

COMPLAINT

In this action Plaintiffs, Anthony and Doris Mendes, seek recovery of more than \$360,000 from Defendant, Cendant Mortgage, based on Plaintiffs' inability to purchase an income producing property because of Cendant's breach of its agreement to provide financing. Cendant's actions also constitute violations of Mass. Gen. Laws Chapter 93A.

PARTIES

1. Plaintiffs, Anthony and Doris Mendes, are married and reside at 895 School Street, Mansfield, Massachusetts.

2. Defendant, Cendant Mortgage ("Cendant"), is an entity which provides home equity financing. Upon information and belief, Cendant maintains a place of business at 3000 Leodenhall Road, Mount Laurel, New Jersey.

THE ALLEGATIONS

3. Mr. and Mrs. Mendes sought home equity financing from Cendant.

4. Cendant directed Mr. and Mrs. Mendes to apply for an FHA loan. Mr. and Mrs. Mendes did so only because Cendant directed them to do so. Mr. and Mrs. Mendes were first time home buyers and relied on the advice of Cendant.

5. Cendant completed a loan application for Mr. and Mrs. Mendes. A true and accurate copy of the application completed by them is attached as Exhibit A.

6. Thereafter, Cendant pre-approved a mortgage in the amount of \$307,545. This mortgage contemplated an interest rate of 7.125 percent. A true and accurate copy of this proposal is allocated as Exhibit B.

7. The letter granting \$307,545 in the pre-approved financing stated:

We're pleased to tell you that you've been approved for a mortgage loan in the amount of \$307,545.00. From here on, getting the home you want will be as easy as 1-2-3. We'll be with you all the way, from the application process right through closing.

Now that your application is already completed and on file with us, all you need to do is find your dream home. As soon as you do, simply call us at 1-800-236-3268, Ext. 84853, to give us the property address, and we'll make sure your loan closes right on time – guaranteed. You can use it to call us 7 days a week with any questions about your mortgage process.

Mr. and Mrs. Mendes Select a Home

8. After receiving this letter, Mr. and Mrs. Mendes then located the home which they desired to purchase. The home was located at 1-3 Chilson Street, Mansfield, Massachusetts. This home contained two apartments which they intended to lease. The rental amounts that they would have received amounted to more than \$1,500 per month.

9. They then executed a purchase and sale agreement knowing that they had been pre-approved for a mortgage in an amount sufficient to purchase the property. A true and accurate copy of the purchase and sale agreement is attached as Exhibit C.

10. The agreed to sales price was \$305,000. Mr. and Mrs. Mendes intended to finance \$296,000, which was \$11,545 less than the pre-approved loan amount of \$307,545.

11. The parties scheduled closing to occur in August 2001.

Cendant Refuses To Finance

12. On the day of the closing, however, Cendant informed Mr. and Mrs. Mendes that it would not provide them with financing.

13. Cendant contended that rents associated with the property to be purchased would not be high enough to satisfy FHA requirements.

14. FHA requirements did not require the rents even to exist, never mind be higher.

15. Mr. and Mrs. Mendes generated sufficient income through employment to qualify for the mortgage.

16. Because of Cendant's refusal to provide financing, Mr. and Mrs. Mendes could not consummate their purchase of the property which they had selected.

17. The owners of 1-3 Chilson Street then sold that property within thirty days of the date on which Mr. and Mrs. Mendes indicated that they could not purchase the property based on the unexpected and wrongful loss of guaranteed financing.

Mr. and Mrs. Mendes Are Forced to Purchase
A Different Property That Does Not Produce Income

18. Following the demise of Mr. and Mrs. Mendes' attempt to purchase 1-3 Chilson Avenue, they located a one family dwelling also in Mansfield. They agreed to purchase their home for \$269,000.

19. To purchase the home, Mr. and Mrs. Mendes qualified for a mortgage in the amount of \$256,400. This interest rate on this loan was 8.625%.

20. Mr. and Mrs. Mendes qualified for this loan without any representation that the property would generate income.

21. The principle and interest payments associated with a \$256,400 mortgage at 8.625 percent produces essentially the same principal and interest payment as for a \$297,000 loan with an interest rate of 7.125 percent.

22. The addition of rental income to be received by Mr. and Mrs. Mendes to the home located at 1-3 Chilson Street would have provided additional income which would have further enabled their ability to pay the \$297,000 mortgage on the Chilson Street property.

Cendant's Contentions After
Failing To Provide Financing

23. Mr. and Mrs. Mendes later claimed that Cendant's acted wrongfully in refusing to provide financing as to the purchase of 1-3 Chilson Street.

24. In response, Cendant claimed that it had proposed that Mr. and Mrs. Mendes utilize conventional financing at or about Cendant refused to provide financing guaranteed by the FHA.

25. Cendant never made any such proposal.

COUNT I
(Breach of Contract)

26. Mr. and Mrs. Mendes incorporate the allegations of Paragraphs 1 through 25 as if fully set forth herein.

27. Cendant agreed to provide Mr. and Mrs. Mendes with \$307,545 in financing to purchase a home.

28. Cendant breached that agreement by refusing to provide the insurance.

29. As a result of that breach, Mr. and Mrs. Mendes suffered damages exceeding \$120,000.

COUNT II
(Breach of Implied Contract)

30. Mr. and Mrs. Mendes incorporated the allegations of Paragraphs 1 through 29 as if fully set forth herein.

31. Cendant represented that it would provide home financing in the amount of \$307,545.

32. As a result of this representation, Mr. and Mrs. Mendes did not look for alternative financing, executed an agreement to purchase 1-3 Chilson Street, and paid a \$9,000 deposit.

33. Cendant indicated after execution of the purchase and sale agreement as to 1-3 Chilson Street that it would not provide financing.

34. As a result of Cendant's refusal to provide financing, Mr. and Mrs. Mendes suffered damages in excess of \$120,000.

COUNT III
(Violation of Chapter 93A)

35. Mr. and Mrs. Mendes incorporated the allegations of Paragraphs 1 through 34 as if fully set forth herein.

36. Cendant is engaged in trade and commerce.

37. Cendant committed unfair and deceptive acts in violation of Section 2 of Mass. Gen. Laws Chapter 93A.

38. Such actions include, but are not limited to, Cendant's refusal to provide financing to Mr. and Mrs. Mendes and its misrepresentation that it offered to provide conventional financing to them.

39. Cendant's actions were willful.

40. As a result of Cendant's unfair and deceptive acts and policies, Mr. and Mrs. Mendes have suffered monetary damages exceeding \$360,000 and emotional harm as well.

WHEREFORE, Mr. and Mrs. Mendes pray that the Court:

1. Enter judgment in favor of Mr. and Mrs. Mendes and against Cendant on Count I in an amount to be determined at trial;
2. Enter judgment in favor of Mr. and Mrs. Mendes and against Cendant on Count II in an amount to be determined at trial;
3. Enter judgment in favor of Mr. and Mrs. Mendes and against Cendant on Count III in an amount to be determined at trial said amount to be trebled, and award attorneys' fees;
4. Award Mr. and Mrs. Mendes interest and costs, which include attorneys' fees; and
5. Award such other and further relief as the Court deems appropriate.

ANTHONY AND DORIS MENDES DEMAND A TRIAL BY JURY ON ALL
CLAIMS SO TRIABLE.

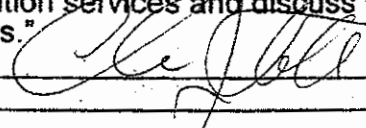
ANTHONY AND DORIS MENDES

By their attorney,
LAW OFFICE OF CHRISTOPHER J. TROMBETTA



Christopher J. Trombetta (BBO# 556923)
310 North Main Street, Suite 6
Mansfield, MA 02048
(508) 339-5900

Dated: July 25, 2005

CIVIL ACTION COVER SHEET	Trial Court of Massachusetts SUPERIOR COURT DEPARTMENT County: <u>Bristol</u>	Docket Number		
PLAINTIFF(S) <u>Anthony and Doris Mendes</u>		DEFENDANT(S) <u>Cendant Mortgage</u>		
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE <u>Law Office of Christopher J. Trombetta</u> <u>Christopher J. Trombetta, 310 N. Main</u> <u>Board of Bar Overseers number: St., Mansfield MA</u>		ATTORNEY (if known) <u>02048</u>		
Origin code and track designation Place an x in one box only:				
<table style="width:100%; border: none;"> <tr> <td style="width:50%; vertical-align: top;"> <input checked="" type="checkbox"/> 1. F01 Original Complaint <input type="checkbox"/> 2. F02 Removal to Sup.Ct. c. 231, s.104 (Before trial) <input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X) </td> <td style="width:50%; vertical-align: top;"> <input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 &104 (After trial) (X) <input type="checkbox"/> 5. F05 Reactivated after rescript/relief from judgment/ Order (Mass.R.Civ.P. 60) (X) <input type="checkbox"/> 6. E10 Summary Process Appeal (X) </td> </tr> </table>			<input checked="" type="checkbox"/> 1. F01 Original Complaint <input type="checkbox"/> 2. F02 Removal to Sup.Ct. c. 231, s.104 (Before trial) <input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)	<input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 &104 (After trial) (X) <input type="checkbox"/> 5. F05 Reactivated after rescript/relief from judgment/ Order (Mass.R.Civ.P. 60) (X) <input type="checkbox"/> 6. E10 Summary Process Appeal (X)
<input checked="" type="checkbox"/> 1. F01 Original Complaint <input type="checkbox"/> 2. F02 Removal to Sup.Ct. c. 231, s.104 (Before trial) <input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)	<input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 &104 (After trial) (X) <input type="checkbox"/> 5. F05 Reactivated after rescript/relief from judgment/ Order (Mass.R.Civ.P. 60) (X) <input type="checkbox"/> 6. E10 Summary Process Appeal (X)			
CODE NO.	TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)	IS THIS A JURY CASE?		
<u>A01</u>	TYPE OF ACTION (specify) <u>Services</u> TRACK <u>(F)</u>	<u>(X) Yes</u> <u>() No</u>		
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.				
TORT CLAIMS (Attach additional sheets as necessary)				
A. Documented medical expenses to date:				
1. Total hospital expenses		\$		
2. Total Doctor expenses		\$		
3. Total chiropractic expenses		\$		
4. Total physical therapy expenses		\$		
5. Total other expenses (describe)		\$		
Subtotal		\$		
B. Documented lost wages and compensation to date				
C. Documented property damages to date				
D. Reasonably anticipated future medical and hospital expenses				
E. Reasonably anticipated lost wages				
F. Other documented items of damages (describe)				
\$				
G. Brief description of plaintiff's injury, including nature and extent of injury (describe)				
TOTAL: \$				
CONTRACT CLAIMS (Attach additional sheets as necessary)				
Provide a detailed description of claim(s):				
Breach of Contract to Provide Financing		TOTAL		
		More than.....		
		\$200,000		
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT <div style="text-align: center;">N/A</div>				
"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."				
Signature of Attorney of Record <u></u>		DATE: <u>7-25-05</u>		

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Anthony Mendes, et al. v. Cendant Mortgage

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- ☒ I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.
- ☐ II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- ☒ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 480, 490, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

N/A

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☒ NO ☐A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☒ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Andrew K. Goldstein, Esq., Thomas I. Elkind, Esq.ADDRESS Foley & Lardner LLP, 111 Huntington Ave. Boston, MA 02199TELEPHONE NO. (617) 342-4000

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Anthony Mendes and Doris Mendes

(b) County of Residence of First Listed Plaintiff Bristol, MA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Christopher J. Trombetta, 310 North Main Street, Suite 6, Mansfield,
MA 02048. Tel ph: (508) 339-5900

DEFENDANTS

Cendant Mortgage

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

Andrew K. Goldstein, Thomas Elkind, Foley & Lardner LLP,
111 Huntington Ave., Boston, MA 02199 Tel ph: (617) 342-4000

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|--|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated or Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
☒ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify) _____
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. sec 1332

Brief description of cause:
Breach of Contract

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

4/25/05

SIGNATURE OF ATTORNEY OF RECORD

Thomas L. Elkind

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____